

State of Arkansas

*As Engrossed: H2/6/97*

81st General Assembly

Regular Session, 1997

By: Senators Brown and Bradford

# A Bill

ACT 244 OF 1997

SENATE BILL 123

## For An Act To Be Entitled

"AN ACT TO AMEND ARKANSAS CODE 17-27-101 ET  
SEQ. TO PROVIDE FOR THE LICENSURE AND  
REGULATION OF MARRIAGE AND FAMILY  
THERAPISTS; AND FOR OTHER PURPOSES."

## Subtitle

"TO PROVIDE FOR THE  
LICENSURE AND REGULATION OF  
MARRIAGE AND FAMILY  
THERAPISTS."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
ARKANSAS:

SECTION 1. Arkansas Code 17-27-101 through 104 are  
amended to read as follows:

"17-27-101. Policy -- Purpose.

(a) It is declared to be the policy of this state  
that activities of those persons who render service to the  
public in the counseling area and use the title ~~licensed~~  
~~professional counselor~~, ~~or licensed associate counselor,~~  
licensed marriage and family therapists, or licensed  
associate marriage and family therapist should be regulated  
for the protection of public health, safety, and welfare.

(b) It is the purpose and intent of this chapter to:

(1) Provide for the regulation of the practice  
of counseling in the State of Arkansas;

(2) Create a board of examiners in counseling, and prescribe the duties and powers of the board;

(3) Provide for the examination and licensure of counselors;

(4) Fix penalties for the violation of this chapter;

(5) Impose license fees and provide for the use of funds derived therefrom; and

(6) Provide for the regulation of the use of the titles licensed professional counselor ~~and, licensed associate counselor~~, licensed marriage and family therapist and licensed associate marriage and family therapist for those who offer counseling services to the public.

17-27-102. Definitions.

As used in this chapter, unless the context otherwise requires:

(1) Licensed professional counselor means any person who:

(A) Holds himself or herself out to the public by any title or description of services incorporating the words licensed professional counselor;

(B) Offers to render counseling services to individuals, groups, organizations, corporations, institutions, government agencies, or the general public for monetary remuneration or otherwise, implying that he or she is licensed, trained, experienced, or expert in counseling; and

(C) Holds a current, valid license to practice counseling, with the exception of those professions listed in ' 17-27-103;

(2) Licensed associate counselor means any person who:

(A) Holds himself or herself out to the public by any title or description of services incorporating the words licensed associate counselor;

(B) Offers to render counseling services to individuals, groups, organizations, corporations, institutions, government agencies, or the general public for monetary remuneration or otherwise implying that he or she is licensed, trained, experienced, or expert in counseling; and

(C) Holds a current, valid license to practice counseling under the supervision of a licensed professional counselor. Nothing in this definition shall be construed to include those professions excluded by ' 17-27-103;

(3)  $\{$ Licensed marriage and family therapist $\}$  means any person who:

(A) Holds himself or herself out to the public by any title or description of services incorporating the words  $\{$ licensed marriage and family therapist $\}$ ;

(B) Offers to render marriage and family therapy services to individuals, groups, couples, families, organizations, corporations, institutions, government agencies, or the general public for monetary remuneration or otherwise implying that he or she is licensed, trained, experienced, or expert in marriage and family therapy; and

(C) Holds a current, valid license to practice marriage and family therapy, with the exception of those professions listed in ' 17-27-103.

(4)  $\{$ Licensed associate marriage and family therapist $\}$  means any person who:

(A) Holds himself or herself out to the public by any title or description of services incorporating the words  $\{$ licensed associate marriage and family therapist $\}$ ;

(B) Offers to render marriage and family therapy services to individuals, couples and families, singularly or in groups for monetary remuneration;

(C) Holds a current, valid license to practice marriage and family therapy services under the supervision of a licensed marriage and family therapist. Nothing in

this definition shall be construed to include those professions excluded by ' 17-27-103.

~~(3)~~(5)    3Board3 means the Arkansas Board of Examiners in Counseling;

~~(4)~~(6)    3Counseling services3 means those acts and behaviors coming within the practice of counseling, as defined in this section; and

~~(5)~~(7)    3Practice of counseling3 means rendering or offering to render to individuals, groups, organizations, or the general public any service involving the application of principles, methods, or procedures of the counseling profession which include, but are not restricted to:

(A)    3Counseling3, which means assisting an individual or groups, through the counseling relationship, to develop understandings of personal problems, to define goals, and to plan action reflecting his or her interests, abilities, aptitudes, and needs as these are related to personal social concerns, educational progress, and occupations and careers;

(B)    3Appraisal activities3, which means selecting, administering, scoring, and interpreting instruments designed to assess an individual's aptitudes, attitudes, abilities, achievements, interests, and personal characteristics, but shall not include the use of projective techniques in the assessment of personality;

(C)    3Consulting3 which means interpreting or reporting scientific fact or theory to provide assistance in solving current or potential problems of individuals, groups, or organizations;

(D)    3Referral activities3, which means the evaluating of data to identify problems and to determine the advisability of referral to other specialists; and

(E)    3Research activities3, which means reporting, designing, conducting, or consulting on research in counseling with human subjects.

(8) Marriage and family therapy means the use of scientific and applied marriage and family theories, methods and procedures for the purpose of describing, evaluating and modifying marital, family and individual behavior within the context of marital and family systems, including the context of marital formation and dissolution. Marriage and family therapy is based on systems theories, marriage and family development, normal and dysfunctional behavior, human sexuality and psychotherapeutic, marital and family therapy theories and techniques and includes the use of marriage and family therapy theories and techniques in the evaluation, assessment and treatment of intrapersonal or interpersonal dysfunctions within the context of marriage and family systems. Marriage and family therapy may also include clinical research into more effective methods for the treatment and prevention of the above-named conditions. Nothing in this definition or in this chapter shall be construed as precluding licensed professional counselors or licensed associate counselors from rendering these services.

17-27-103. Exemptions.

(a) This chapter shall not be applicable to persons engaged in counseling individuals or groups concerning weight loss, weight control, or nutrition education, nor to persons whose counseling activities are confined to the area of alcohol and drug abuse.

(b) Nothing in ' 17-27-104 shall be construed to preclude the advertising of services or to limit:

(1) The professional pursuits of administrators, teachers, and school counselors certified by the Department of Education within the scope of their duties in recognized public and private schools;

(2) Nonresident persons engaged in consulting or research activities in counseling for a period not greater than thirty (30) days in a calendar year;

(3) Clergymen in so far as their activities and services are a part of the official duties in salaried positions;

(4) Practitioners of medicine;

(5) Psychologists;

(6) Social workers;

(7) Listed Christian Science practitioners in so far as their activities and services are a part of the official duties;

(8) Individuals offering volunteer services who are approved by the organization or agency for whom the service is rendered;

(9) Persons in the employ of the federal, state, or local government or accredited institutions of higher education, insofar as their activities and services are a part of the official duties in salaried positions; or

(10) Other professionals, provided that:

(A) Such persons hold valid licenses, certificates, or registrations in the State of Arkansas and are operating within the scope of their professional duties; and

(B) The title ~~licensed professional counselor~~, ~~or licensed associate counselor~~, licensed marriage and family therapist or licensed associate marriage and family therapist is not used.

(c) Students engaged in counselor training programs and other persons preparing for the profession of licensed counselor may perform as part of their training the functions specified in ' 17-27-102, provided that such functions are performed under supervision of a licensed professional counselor.

17-27-104. Prohibitions -- Penalties.

Any person who shall hold himself or herself out to the public as being engaged in the practice of counseling or marriage and family therapy as defined in ' 17-27-102 or represents himself or herself by the title ~~licensed~~

professional counselor~~3or~~, 3licensed associate counselor3,  
3licensed marriage and family therapist3 or 3licensed  
associate marriage and family therapist3 and shall not then  
possess in full force and virtue a valid license to  
practice counseling as provided in this chapter shall be  
deemed guilty of a Class A misdemeanor. Upon conviction  
that person shall be punished by a fine of not less than  
five hundred dollars (\$500) nor more than one thousand  
dollars (\$1,000) and may be imprisoned for a term not  
exceeding one (1) year. Each violation and conviction  
shall be deemed a separate offense. Notwithstanding the  
limits imposed for a Class A misdemeanor, if the defendant  
has derived pecuniary gain in the form of client fees  
received for services in violation of this chapter, the  
fees will be refunded. No firm, partnership, or  
corporation may offer to the public or other firms,  
partnerships, or corporations any counseling services as  
specified in ' 17-27-102 unless those services are performed  
or supervised by individuals fully and validly licensed  
under this chapter."

SECTION 2. Arkansas Code 17-27-201 is amended to read  
as follows:

"17-27-201. Creation -- Members.

(a) There is created a board to be known as the  
Arkansas Board of Examiners in Counseling consisting of  
~~eight (8)~~ nine (9) members who shall be appointed by the  
Governor.

(b) Appointments shall ensure that the board consists  
of citizens of the United States, residents of Arkansas, at  
least one (1) member of each sex, and at least one (1)  
member of an ethnic minority.

(c) (1) The composition of the board shall include:

(A) Six (6) licensed or licensable counselors,  
three (3) who are practicing counselors and three (3) who  
are counselor educators or supervisors, one of which shall

also be a licensed marriage and family therapist, if available. These members shall be appointed from a list submitted to the Governor, not later than November 1 of each year, by the Executive Committee of the Arkansas ~~Personnel and Guidance Association~~ Counseling Association;

(B) One licensed marriage and family therapist. This member shall be appointed from a list submitted to the Governor, not later than November 1 of each year, by the Board of Directors of the Arkansas Association for Marriage and Family Therapists.

—————~~(B)~~(C) One (1) member from the general public, who is not licensed or licensable, who shall represent consumers. This member shall be appointed from a list submitted to the Governor, not later than November 1 of each year, by the Executive Committee of the Arkansas ~~Personnel and Guidance~~ Counseling Association; and

—————~~(C)~~(D) One (1) member who shall represent the elderly. This member shall be sixty (60) years of age or older and not actively engaged in or retired from the profession of counseling. He or she shall be appointed from the state at large subject to confirmation by the Senate and shall be a full voting member, but shall not participate in the grading of examinations.

(2) The same person may not be both the consumer representative and representative of the elderly.

(d) Board members shall be appointed for a three-year term.

(e) Vacancies for the unexpired terms of the professional members and the consumer member shall be filled by the Governor from candidates submitted within thirty (30) days of the vacancy by the Executive Committee of the Arkansas ~~Personnel and Guidance~~ Counseling Association, ~~and the Board of Directors of the Arkansas Association for Marriage and Family Therapists.~~ The appointments shall be made within thirty (30) days after the candidate's names have been submitted.



(f) Any board member may be removed by the Governor, after written notice and hearing, for incapacity, incompetence, neglect of duty, or ~~misfeasance or~~ malfeasance in office.

(g) Board members shall be ineligible for reappointment for a period of three (3) years following completion of their terms.

(h) The members shall immediately and before performing public duties take the constitutional oath of office. They shall file the oath in the office of the Governor who, upon receiving it, shall issue to each member a certificate of appointment.

(i) Each member shall receive all necessary expenses incident to holding meetings; provided, that the expenses shall in no case exceed funds available to the board."

SECTION 3. Arkansas Code 17-27-203 is amended to read as follows:

"17-27-203. Duties and powers.

(a) The board shall perform such duties and have such powers as this chapter prescribes and confers upon it.

(b) The board shall adopt such rules, regulations, and procedures as it deems necessary for the performance of its duties.

(c) The board shall adopt the Code of Ethics of the American ~~Personnel and Guidance Counseling~~ Association and any revisions or additions deemed appropriate by this board to govern appropriate practice or behavior referred to in this chapter.

(d) The board shall adopt the code of ethics of the American Association of Marriage and Family Therapy to govern licensed marriage and family therapists and licensed associate marriage and family therapists.

~~—(d)~~(e) The board is required to charge an application fee determined by the board.

———~~(e)~~(f) The board shall be empowered to accept grants from foundations and institutions to carry on its functions and to hire such assistants as are necessary to perform its activities."

SECTION 4. Arkansas Code 17-27-301 et seq. is amended to read as follows:

"17-27-301. Licensed professional counselor --  
Qualifications.

The board shall issue a license as a licensed professional counselor to each applicant who files an application upon a form and in such manner as the board prescribes, accompanied by a fee as set by the board, and who furnishes satisfactory evidence of the following to the board:

(1) The applicant is not a minor under the laws of Arkansas;

(2) The applicant is highly regarded in personal character and professional ethics;

(3) The applicant is not in violation of any of the provisions of this chapter and the rules and regulations adopted hereunder;

(4) The applicant has received a graduate degree from a regionally accredited institution of higher education which is primarily professional counseling in content and has accumulated at least ~~thirty-six (36)~~ forty-eight (48) graduate semester hours and which meets the academic and training content standard established by the board. The board shall use the standards for the preparation of counselors prepared by that special professional association nationally as a guide in establishing the standards for counseling;

(5) The applicant has three (3) years of supervised full-time experience in professional counseling acceptable to the board. One (1) year of experience may be gained for each thirty (30) graduate semester hours earned beyond the master's degree, provided that the hours are clearly related

to the field of counseling and are acceptable to the board. In no case may the applicant have less than one (1) year of professional experience; and

(6) The applicant will declare special competencies and demonstrate professional competence in specialty areas by passing a written or oral or situational examination, or any combination thereof, as the board will prescribe. Upon examination of credentials the board, by a majority of the board members present and voting, may consider such credentials adequate evidence of professional competence and recommend to the chairman of the board that a license be approved in that specialty.

17-27-302. Licensed associate counselor --  
Qualifications.

(a) The board shall issue a license of licensed associate counselor to each applicant who meets the requirements established in ' 17-27-301, with the exception of 17-27-301(5).

(b) The licensed associate counselor may practice only under direct supervision of a licensed professional counselor.

(c) The plan for supervision of the licensed associate counselor must be approved by the board prior to any actual performance of counseling on the part of the licensed associate counselor.

(d) Any licensed associate counselor may petition the board for licensure review for the licensed professional counselor provided that requirements of ' 17-27-301(5) have been completed.

17-27-303. Licensed marriage and family therapist -  
Qualifications - Application before January 1, 1998.  
The board shall issue a license as a licensed marriage and  
family therapist to each applicant who files an application  
upon a form and in such manner as the board prescribes,  
accompanied by a fee as set by the board, and who furnishes  
satisfactory evidence of the following to the board:

(1) The applicant is not a minor under the laws of Arkansas;

(2) The applicant is highly regarded in personal character and professional ethics;

(3) The applicant is not in violation of any of the provisions of this chapter and the rules and regulations adopted hereunder;

(4) The applicant has received a graduate degree in either marriage and family therapy, or a related field with specific course work in marriage and family therapy as approved by the board; and

(5) The applicant has at least five (5) years of clinical experience in the practice of marriage and family therapy or clinical membership in the American Association of Marriage and Family Therapy or the National Academy of Certified Family Counselors or certification by an appropriate professional organization, as defined by the board.

17-27-304. Licensed marriage and family therapists - Qualifications - Application after January 1, 1998.

The board shall issue a license as a marriage and family therapist to each applicant who files an application after January 1, 1998 upon a form and in such manner as the board prescribes, accompanied by a fee as set by the board if he or she meets the qualifications set forth in (1), (2) and (3) of ' 17-27-303 and provides satisfactory evidence to the board that he or she:

(A) Meets educational experience qualifications as follow:

(1) Educational requirements: a master's degree or a doctoral degree in marriage and family therapy from a regionally accredited educational institution or a graduate degree in the allied fields referred to in ' 17-27-303(4) from a regionally accredited educational institution and graduate level course work which is equivalent to a master's

degree in marriage and family therapy as determined by the board.

(2) Experience requirements: the applicant has three (3) years of supervised full-time experience in marriage and family therapy acceptable to the board. One (1) year of experience may be gained for each thirty (30) graduate semester hours earned beyond the master's degree, provided that the hours are clearly related to the field of marriage and family therapy and are acceptable to the board. In no case may the applicant have less than one (1) year of professional supervised experience.

(B) Passes an examination or examinations administered by the board.

17-27-305. Licensed Associate marriage and family therapist - Qualifications

(a) The board shall issue a license as a licensed associate marriage and family therapist to each applicant who meets the requirements of ' 17-27-304 with the exception of (A)(2), thereof.

(b) The licensed associate marriage and family therapist may practice only under direct supervision of a licensed marriage and family therapist.

(c) The plan for supervision of the licensed associate marriage and family therapist must be approved by the board prior to any actual performance of marriage and family therapy by the licensed associate marriage and family therapist.

(d) Any licensed associate marriage and family therapist may petition the board for licensure review for licensed marriage and family therapist provided the requirements of ' 17-27-304A(2) have been met.

17-27-~~303~~ 306. Examination.

(a) The place of examination shall be designated in advance by the board. The examination shall be given annually at such time and place and under such supervision as the board may determine, and specifically at other times

as in the opinion of the board the number of applicants warrants.

(b) The examination shall require that the applicant demonstrate his or her knowledge and application thereof in those areas deemed relevant to his or her specialty and identify those services he or she intends to offer to the public.

(c) To ensure impartiality, written examination documents shall be identified by number. No paper shall be marked in the name of any applicant.

(d) The board will report the results of the examination and recommend to the chairman action to be taken.

(e) The board is required to preserve examination materials, an accurate transcript of the questions and answers to any examination, and the applicant's performance on each section as part of its records for a period of two (2) years following the date of the examination.

(f) In the event an applicant fails to pass the entire examination, he or she may reapply and shall be allowed to take a subsequent examination. An applicant who has failed two (2) successive examinations may not reapply for two (2) years from the date of the last examination.

17-27-~~304~~ 307. Renewal.

(a) (1) Biannually at the time of renewal, counselors and licensed marriage and family therapists licensed under this chapter shall be required to submit a license renewal fee to be established by the board.

(2) Failure to pay the biannual renewal fee within the time stated shall automatically suspend the right of any licensee to practice while delinquent. The lapsed license may be renewed within a period of one (1) year after payment of all fees in arrears.

(b) No license shall be renewed unless the renewal request is accompanied by evidence satisfactory to the board of the completion during the previous twenty-four

(24) months of relevant professional or continued educational experience.

(c) If any licensed professional counselor, ~~or~~ licensed associate counselor, licensed marriage and family therapist or licensed associate marriage and family therapist duly licensed under this chapter, by virtue of additional training and experience, is qualified to practice in a specialty other than that for which he or she was deemed competent at the time of initial licensing and wishes to offer service under the provisions of this chapter, he or she is required to submit additional credentials and he or she is to be given the opportunity to demonstrate his or her knowledge and application thereof in areas deemed relevant to his or her specialty.

17-27-~~305~~ 308. Reciprocity.

(a) At its discretion, the board may waive formal examination requirements of a candidate who is licensed or certified to practice counseling or marriage and family therapy by a similar board in another state if, in the opinion of the board, the standards and qualifications required for the practice of counseling in the candidate's licensing state are at least equal to those required by this chapter.

(b) The board has the power to waive formal examination requirements only and does not have the power to waive any required period of supervision as provided in this chapter.

17-27-~~306~~ 309. Suspension or revocation.

The board shall have the power to suspend or revoke the license of any person found guilty of violating any ethical or professional standard. ~~The sanction of suspension upon order of the board shall not be for a period greater than six (6) months.~~ Any licensee thereby sanctioned shall not be allowed to practice counseling in this state until the termination of the suspension period and subsequent timely review by the board.

17-27-~~307~~ 310. Fees -- Disposition of funds.

(a) All fees from applicants seeking licensure under this chapter and all license or renewal fees received shall be paid to the board.

(b) No part of any fee shall be returnable under any condition other than failure of the board to hold examinations at the time originally announced, whereupon the entire fee may be returned at the option of the applicant.

(c) All fees collected or gifts or grants shall be deposited in the State Treasury to the credit of the board. Expenses shall be paid under written direction of the chairman and secretary of the board in accordance with usual state procedures.

17-27-~~308~~ 311. Privileged communication.

For the purposes of this chapter, the confidential relations and communications between a licensed counselor and client or licensed associate counselor and client or between a licensed marriage and family therapist and client or between an licensed associate marriage and family therapist and client are placed upon the same basis as those ~~provided by statute~~ between an attorney and client. Nothing in this chapter shall be construed to require that any such privileged communication be disclosed.

17-27-312. Application of laws pertaining to licensed professional counselors.

All laws of this state that pertain to licensed professional counselors shall likewise pertain to and include licensed marriage and family therapists."

SECTION 5. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.



SECTION 6. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 7. All laws and parts of laws in conflict with this act are hereby repealed.

*/s/Senator Brown, et al*

APPROVED:2-24-97